

HOUSE BILL NO. 535

INTRODUCED BY W. STAHL

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING SURFACE BONDS IN CERTAIN SITUATIONS FOR GAS OPERATIONS; GRANTING RULEMAKING AUTHORITY TO THE BOARD OF OIL AND GAS CONSERVATION FOR SURFACE BONDING PROCEDURES; AMENDING SECTIONS 82-10-502, 82-10-504, AND 82-10-508, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 82-10-502, MCA, is amended to read:

"82-10-502. Definitions. As used in this part, the following definitions apply:

(1) "Agricultural production" means the production of any growing grass, crops, or trees attached to the surface of the land or farm animals with commercial value.

(2) "Board" means the board of oil and gas conservation provided for in 2-15-3303.

~~(2)~~(3) "Oil and gas developer or operator" means the person who acquires the oil and gas lease for the purpose of extracting oil and gas.

~~(3)~~(4) "Oil and gas estate" means an estate in or ownership of all or part of the oil and gas underlying a specified tract of land.

~~(4)~~(5) "Oil and gas operations" means the exploration for or drilling of an oil and gas well that requires entry upon the surface estate and is begun subsequent to June 1, 1981, and the production operations directly related to the exploration or drilling.

~~(5)~~(6) "Surface owner" means the person who holds record title to or has a purchaser's interest in the surface of the land."

Section 2. Section 82-10-504, MCA, is amended to read:

"82-10-504. Surface damage and disruption payments -- dispute resolution -- penalty for late payment. (1) (a) The surface owner and the oil and gas developer or operator shall attempt to negotiate an agreement on damages. The oil and gas developer or operator shall pay the surface owner a sum of money or other compensation equal to the amount of damages sustained by the surface owner for loss of agricultural

1 production and income, lost land value, and lost value of improvements caused by oil and gas operations.

2 (b) The amount of damages may be determined by any formula mutually agreeable between the surface
3 owner and the oil and gas developer or operator. When determining damages, consideration must be given to
4 the period of time during which the loss occurs.

5 (c) At any time during the negotiation, at the request of either party and upon mutual agreement, the
6 surface owner and the oil and gas developer or operator may enter into a dispute resolution process, including
7 mediation.

8 (d) The surface owner may elect to receive annual damage payments over a period of time, except that
9 the surface owner must be compensated by a single sum payment for harm caused by exploration only.

10 (e) The payments contemplated by this subsection (1) may cover only land directly affected by oil and
11 gas operations and production. Payments under this subsection (1) are intended to compensate the surface
12 owner for damage and disruption. A person may not reserve or assign damage and disruption compensation
13 apart from the surface estate except to a tenant of the surface estate.

14 (2) An oil and gas developer or operator who fails to timely pay an installment under any annual damage
15 agreement negotiated with a surface owner is liable for payment to the surface owner of twice the amount of the
16 unpaid installment if the installment payment is not paid within 60 days of receipt of notice of failure to pay from
17 the surface owner.

18 (3) (a) The provisions of this subsection apply only to gas developers or operators.

19 (b) Access to land for gas operations is allowed after the provisions of 82-10-503 are met, a drilling
20 permit is obtained, and:

21 (i) an agreement on damages is reached pursuant to this section; or

22 (ii) a bond is posted pursuant to [section 3]."

23
24 **NEW SECTION. Section 3. Surface bonds for gas operations -- rulemaking authority.** (1) The board
25 shall adopt rules to implement a surface bonding process for gas operations that includes procedures for
26 determining the bond amount for each well and for blanket bonds, posting bonds, appealing bond amounts,
27 forfeiting bonds to the surface owners, and releasing bonds to the gas developer or operator.

28 (2) A gas developer or operator who presents evidence, on a form required by the board, that
29 negotiations pursuant to 82-10-504 failed to produce an agreement may post a bond of at least \$1,000 per well
30 or a blanket bond as determined by the board.

(3) The board shall notify the surface owner that a bond has been posted.

(4) The board shall release the bond after:

(a) compensation for damages pursuant to 82-10-504 has occurred;

(b) all parties agree on the release;

(c) the final resolution of any judicial appeal pursuant to 82-10-508 and payment of any damages; or

(d) the gas developer or operator provides to the board a sworn statement that the surface owner failed to provide the written notice required by 82-10-506.

(5) Prior to release of the bond, the board shall make a reasonable effort to contact the surface owner and confirm that:

(a) compensation was received;

(b) the surface owner and the gas developer or operator reached an agreement; or

(c) the surface owner failed to provide notice pursuant to 82-10-506.

(6) Any bond required by this section is in addition to the surety bond required by 82-11-123.

Section 4. Section 82-10-508, MCA, is amended to read:

"82-10-508. Rejection -- legal action -- forfeiture of bond. (1) If the person seeking compensation receives a written rejection, rejects the offer of the oil and gas developer or operator, or receives no reply, that person may bring an action for compensation in the district court of the county in which the damage was sustained.

(2) A bond posted pursuant to [section 3] must be forfeited to the surface owner if a judgment in favor of the surface owner is greater than or equal to the bond."

NEW SECTION. Section 5. Codification instruction. [Section 3] is intended to be codified as an integral part of Title 82, chapter 10, part 5, and the provisions of Title 82, chapter 10, part 5, apply to [section 3].

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